

COOLEY LLP
 JOHN C. DWYER (136533) (dwyerjc@cooley.com)
 JAMES M. PENNING (229727) (jpenning@cooley.com)
 KARA C. WILSON (268535) (kwilson@cooley.com)
 Five Palo Alto Square
 3000 El Camino Real
 Palo Alto, CA 94306-2155
 Telephone: (650) 843-5000
 Facsimile: (650) 849-7400

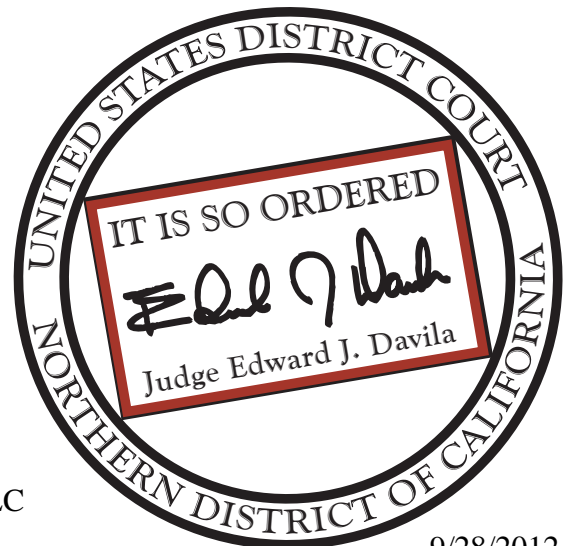
COOLEY LLP
 WHITTY SOMVICHIAN (194463) (wsomvichian@cooley.com)
 101 California Street, 5th Floor
 San Francisco, CA 94111-5800
 Telephone: (415) 693-2000
 Facsimile: (415) 693-2222

Attorneys for Defendant EBAY INC.

FIGARI & DAVENPORT, LLP
 KEITH R. VERGES (kverges@figdav.com)*
 PARKER D. YOUNG (parker.young@figdav.com)*
 RAYMOND E. WALKER (ray.walker@figdav.com)*
 901 Main Street, Suite 3400
 Dallas, TX 75202
 Telephone: (214) 939-2000
 Facsimile: (214) 939-2090
 *Admitted Pro Hac Vice

Attorneys for Plaintiff RICHARD NOLL and
 Plaintiff/Intervenor RHYTHM MOTOR SPORTS, LLC

Additional attorneys listed on signature page



9/28/2012

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA - SAN JOSE DIVISION

RICHARD NOLL, Individually and on behalf
 of all others similarly situated,

Plaintiff,

AND

RHYTHM MOTOR SPORTS, LLC,
 Individually and on behalf of all others
 similarly situated

Plaintiff/Intervenor,

v.

EBAY INC.,

Defendant.

Case No. 5:11 CV-04585 EJD

**STIPULATION SETTING BRIEFING
 SCHEDULE FOR EBAY INC.'S RESPONSE
 TO CONSOLIDATED COMPLAINT**

Courtroom: 4
 Judge: Hon. Edward J. Davila
 Trial Date: None Set

1 This Stipulation is entered into by and among plaintiffs Richard Noll (“Noll”) and Rhythm
 2 Motor Sports LLC (“Rhythm”) (collectively “Plaintiffs”) and defendant eBay Inc. (“eBay”) (Plaintiffs and eBay collectively “the Parties”), by and through their respective counsel.

4 WHEREAS, on September 4, 2012, the Court granted Rhythm’s motion to intervene and
 5 ordered Rhythm to file its complaint in intervention (the “Rhythm Complaint”) by September 18,
 6 2012 and Plaintiffs to file a consolidated complaint by October 2, 2012 [Docket No. 83];

7 WHEREAS, on September 18, 2012, the Rhythm Complaint was filed in the above-
 8 captioned action [Docket No. 84];

9 WHEREAS, Plaintiffs acknowledge that eBay need not file a separate response to the
 10 Rhythm Complaint and will instead respond to all claims brought by Rhythm by filing a response
 11 to the consolidated complaint to be filed in this matter. Plaintiffs acknowledge that by responding
 12 to the consolidated complaint and not the Rhythm Complaint, eBay is not waiving or foregoing
 13 any rights, defenses, or counterclaims it may have in connection with Rhythms claims;

14 WHEREAS, under Civil Local Rule 6-2, parties may stipulate in writing to request an
 15 extension of time within which to respond to a motion to dismiss and for eBay to file a reply
 16 thereto;

17 WHEREAS, extending the date for Plaintiffs to respond to a motion to dismiss and for
 18 eBay to file a reply thereto as set forth below will not alter the date of any event or deadline
 19 already fixed by Court order;

20 **IT IS HEREBY STIPULATED THAT:**

- 21 1. eBay need not respond to the Rhythm Complaint;
- 22 2. eBay, by responding to the consolidated complaint and not the Rhythm Complaint,
 23 is not waiving or foregoing any rights, defenses, or counterclaims it may have in connection with
 24 Rhythm’s claims;
- 25 3. eBay shall file its response to the consolidated complaint (answer, move, or
 26 otherwise respond) no later than October 17, 2012;
- 27 4. If eBay files a motion, Plaintiffs’ opposition shall be filed no later than
 28 November 2, 2012; and

1 5. eBay shall file its reply in support of any such motion no later than
2 November 16, 2012.

3
4 Dated: September 26, 2012

COOLEY LLP

5
6 /s/ James M. Penning
JAMES M. PENNING (229727)

7 *Attorneys For Defendant EBAY INC.*

8 Dated: September 26, 2012

FIGARI & DAVENPORT, LLP

9
10 /s/ Keith R. Verges
KEITH R. VERGES

11 *Attorneys for Plaintiff RICHARD NOLL and*
12 *Plaintiff/Intervenor RHYTHM MOTOR SPORTS,*
13 *LLC*

1 Additional attorneys:

2 LAW OFFICE OF SHAWN T. LEUTHOLD
3 SHAWN T. LEUTHOLD (leuthold@aol.com)
4 1671 The Alameda, Suite 303
5 San Jose, CA 95126
6 Telephone: (408) 924-0132
7 Facsimile: (408) 924-0134

8 THOMPSON & BROOKS
9 VERA BROOKS (vbrooks@thompsonbrooks.com)*
412 E. Madison Street, Suite 900
Tampa, FL 33602
Telephone: (813) 387-1822
Facsimile: (813) 387-1825
*Admitted Pro Hac Vice

10 Attorneys for Plaintiff RICHARD NOLL and
11 Plaintiff/Intervenor RHYTHM MOTOR SPORTS, LLC
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ATTESTATION PURSUANT TO CIVIL LOCAL RULE 5-1(i)(3)

Pursuant to Civil Local Rule 5-1(i)(3) regarding signatures, I attest under penalty of perjury that the concurrence in the filing of this document has been obtained from its signatory.

/s/ James M. Penning

1062505 v1/HN